

# **EXHIBIT 5**

**Stephen Stern**

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**From:** Bruce L. Marcus <bmarcus@marcusbonsib.com>  
**Sent:** Monday, November 1, 2021 6:34 PM  
**To:** Gregory Jordan  
**Cc:** Stephen Stern; Sydney M. Patterson; tgagliardo@gelawyer.com  
**Subject:** Re: Daniel White Notice of Deposition

Mr. Stern,

Mr. White is not available on the 5th. We will appear on the 22nd as indicated in my correspondence. Please advise as to whether you intend to take Mr. White's deposition on November 22, 2021 at a time that you designate. If not, we will need to explore dates in late December.

Inasmuch as I invited your attention to my earlier e-mails on the dates I was available as distinct from Mr. White's availability, I will not again refer you that correspondence.

Thank you and have a nice evening.

Bruce L. Marcus, Esq.  
MarcusBonsib, LLC  
6411 Ivy Lane  
Suite 116  
Greenbelt, Maryland 20770  
301-441-3000 (o)  
301-441-3003 (f)

Sent from my iPhone

On Nov 1, 2021, at 12:50 PM, Gregory Jordan <gjordan@jz-llc.com> wrote:

Stephen,

When I sent my email, I was not thinking about appearing at Daniel White's deposition in person, rather than by Zoom. As I mentioned in my email, I have other matters in the morning on Thursday. Given that I would have to appear in person, I cannot travel to Annapolis on November 5. I can appear on November 22 or various other dates if I am given sufficient notice and do not have a conflict.

Gregory J. Jordan

Licensed in Illinois and Indiana

**NOTE OUR NEW ADDRESS:**  
Jordan & Zito LLC  
350 North LaSalle Street, Suite 1100  
Chicago Illinois 60654  
(312) 854-7181 (Office)  
(312) 543-7354 (Cellular)  
[gjordan@jz-llc.com](mailto:gjordan@jz-llc.com)

**\*\*Notice from Jordan & Zito LLC \*\***

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Jordan & Zito LLC

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**From:** Stephen Stern <Stern@kaganstern.com>  
**Sent:** Monday, November 1, 2021 11:09 AM  
**To:** Bruce L. Marcus <bmarcus@marcusbonsib.com>  
**Cc:** Sydney M. Patterson <SPatterson@marcusbonsib.com>; Gregory Jordan <gjordan@jz-llc.com>;  
tgagliardo@gelawyer.com  
**Subject:** RE: Daniel White Notice of Deposition

There is no reason why you could not have confirmed the conflict prior to me sending the notice of deposition. And, yet again, you claim that Daniel White has conflicts with his duties as a lawyer, but you have not identified those conflicts other than in vague, generic references.

Let's proceed instead with November 5 (the other date you confirmed availability). It should not take two months for Daniel White to make himself available (considering the court issued its order for his deposition on September 27) and it should not take three weeks from today to make himself available. We will proceed with the other date you offered, November 5. If that date does not work, we can proceed with November 3.

And, once again, you disregard the request for documents. There is no reason why all responsive documents could not have already been produced. They need to be produced immediately.

Stephen

<image001.png> **Stephen B. Stern, Esq.**  
[stern@kaganstern.com](mailto:stern@kaganstern.com)

**Kagan Stern Marinello & Beard, LLC**  
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**From:** Bruce L. Marcus <bmarcus@marcusbonsib.com>  
**Sent:** Monday, November 1, 2021 12:01 PM  
**To:** Stephen Stern <Stern@kaganstern.com>  
**Cc:** Sydney M. Patterson <SPatterson@marcusbonsib.com>; gjordan@jz-llc.com;  
tgagliardo@gelawyer.com  
**Subject:** Re: Daniel White Notice of Deposition

Mr. Stern,

Thank you for your correspondence. It appears that you may need to revisit my earlier correspondence. At no time did I indicate that Mr. White was available on the 4th. Unfortunately, prior to unilaterally setting the deposition did you check Mr. White's availability. And as far as dates were concerned I specifically indicated that I, not Mr. White, was available for the 4th. He and I were trying to confirm schedules. That process resulted in the 22nd. As it turns out due to a personal medical issue I will be at an appointment in Baltimore on November 4th as the follow on to an emergent problem which arose last week while I was out of town.

I will be in Baltimore on Thursday November 4th while Mr. White attends to his cases and prior commitments as a member of the Bar. There is no prejudice with scheduling on the 22nd. After all, Mr. White is a non-party with limited knowledge of any facts. Putting aside customary professional courtesies, given what I have indicated plus the actual language of my earlier correspondence, please be advised that we will be available on the 22nd at the hour you designate for Mr. White's deposition. We are not available on the 4th.

Please confirm the time for the 22nd and provide the platform through which you would propose to take the deposition. Thank you in advance for all anticipated courtesies. I look forward to your response.

Bruce L. Marcus, Esq.  
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Sent from my iPhone

On Nov 1, 2021, at 10:08 AM, Stephen Stern <Stern@kaganstern.com> wrote:

Bruce:

Based on your email, the only reasonable conclusion to reach is that this is yet another delay tactic and Daniel White has no legitimate basis to avoid being deposed on November 4 (and there is no legitimate basis for his failure to produce responsive documents). Daniel White has now been under subpoena to be deposed for approximately two and one-half months – and he has been under a court order to appear for his deposition since September 27 – and yet each time we seek to schedule his deposition he is unwilling to appear and each

time we request the documents he has a new excuse as to why they cannot be produced.

You offered November 4 as a date to conduct Daniel White's deposition. We confirmed our availability for that date and I later sent a notice of deposition confirming November 4 as the date for the deposition. Then, almost immediately after receiving the notice of deposition confirming Daniel White's deposition for November 4, you offered November 22 as the date for his deposition, by video (instead of in-person, as the deposition notice required), without any explanation.

It is evident from your email that there is no conflict and Daniel White is available to proceed on November 4 for the in-person deposition. We will be proceeding on that date.

And, as for the document production, again, Daniel White has been under a subpoena to produce documents for approximately two and one-half months and the court ordered him to produce the documents more than one month ago (that is longer than parties have to respond to document requests pursuant to Rule 34 of the Federal Rules). There is no valid excuse for not producing the documents. Your statement that you "hope" to have the documents in advance of the deposition only signals some further (improper) delay tactic/excuse will be forthcoming. The documents need to be produced immediately.

Stephen

<image001.png> **Stephen B. Stern, Esq.**  
[stern@kaganstern.com](mailto:stern@kaganstern.com)

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**From:** Bruce L. Marcus <[bmarcus@marcusbonsib.com](mailto:bmarcus@marcusbonsib.com)>  
**Sent:** Friday, October 29, 2021 3:09 AM  
**To:** Stephen Stern <[Stern@kaganstern.com](mailto:Stern@kaganstern.com)>  
**Cc:** Sydney M. Patterson <[SPatterson@marcusbonsib.com](mailto:SPatterson@marcusbonsib.com)>; [gjordan@jz-llc.com](mailto:gjordan@jz-llc.com);  
[tgagliardo@gelawyer.com](mailto:tgagliardo@gelawyer.com)  
**Subject:** Re: Daniel White Notice of Deposition

Mr. Stern,

Sorry to have been delayed in my response. Mr. White was in trial and I have been out of town returning late last night. Mr. White is available for deposition on November 22,

2021. I apologize for any delay. Please advise us on a Zoom platform meeting for the deposition. While the deposition calls for delivery of documents at the deposition, I hope to have the documents to you in advance of the deposition to alleviate inconvenience. Needless to say you will not need to produce another notice. Thank you for cooperation and courtesy. We look forward to seeing you on the 22nd.

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Sent from my ipad

On Oct 28, 2021, at 11:06 PM, Stephen Stern <[Stern@kaganstern.com](mailto:Stern@kaganstern.com)> wrote:

Bruce:

Since I have not heard back from you or your colleague advising that November 4 does not work, I have taken you up on your offer and scheduled the deposition to begin at 12:30 pm on November 4. See the attached Second Amended Notice of Deposition.

Stephen

<image001.png>

**Stephen B. Stern, Esq.**  
[stern@kaganstern.com](mailto:stern@kaganstern.com)

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**From:** Stephen Stern  
**Sent:** Monday, October 25, 2021 8:19 PM  
**To:** Bruce L. Marcus <[bmarcus@marcusbonsib.com](mailto:bmarcus@marcusbonsib.com)>  
**Cc:** Sydney M. Patterson <[SPatterson@marcusbonsib.com](mailto:SPatterson@marcusbonsib.com)>; [gjordan@jz-llc.com](mailto:gjordan@jz-llc.com); [tgagliardo@gelawyer.com](mailto:tgagliardo@gelawyer.com)  
**Subject:** RE: Daniel White Notice of Deposition

I am available on November 4 and November 5. Please confirm Daniel White's availability.

Meanwhile, you have yet again ignored my request for immediate production of the documents that were originally due more than two months ago. Please have Daniel White produce all responsive documents immediately.

Stephen

<image001.png> **Stephen B. Stern, Esq.**  
[stern@kaganstern.com](mailto:stern@kaganstern.com)

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**From:** Bruce L. Marcus <[bmarcus@marcusbonsib.com](mailto:bmarcus@marcusbonsib.com)>  
**Sent:** Saturday, October 23, 2021 9:33 AM  
**To:** Stephen Stern <[Stern@kaganstern.com](mailto:Stern@kaganstern.com)>  
**Cc:** Sydney M. Patterson <[SPatterson@marcusbonsib.com](mailto:SPatterson@marcusbonsib.com)>;  
[gjordan@jz-llc.com](mailto:gjordan@jz-llc.com); [ttagliardo@gelawyer.com](mailto:ttagliardo@gelawyer.com)  
**Subject:** Re: Daniel White Notice of Deposition

Mr. Stern,

Thank you for your prompt response. While I was in flight yesterday afternoon, I did check e-mails when I landed late yesterday afternoon. And at your suggestion, I checked again this morning. I was unable to locate your responsive e-mail. Perhaps if you could share the e-mail you believe was sent I will attempt to locate your correspondence. I have sent Mr. White your last e-mail. I am unavailable on the 1st and 2nd but am available on the 4th and 5th, assuming of course, Mr. White and other counsel are available.

Hopefully, we can confirm a date with all counsel for the end on the week. Again, thank you for your response this morning. Have a nice weekend, all.

Bruce

Bruce L. Marcus  
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301-441-3000  
[bmarcus@marcusbonsib.com](mailto:bmarcus@marcusbonsib.com)

Sent from my ipad

On Oct 23, 2021, at 9:09 AM, Stephen Stern  
<[Stern@kaganstern.com](mailto:Stern@kaganstern.com)> wrote:

Mr. Marcus:

I do not appreciate you pretending that I did not respond. Please check your email again. I sent an email at 2:50 pm, identifying November 1 and November 2 as the dates for the deposition. I also inquired as to why your client has not produced the documents yet, as there is no reason why he cannot do that right away; they are long overdue.

Please check your email. These tactics will not work in postponing this deposition and document production longer.

Stephen

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**From:** Bruce L. Marcus <[bmarcus@marcusbonsib.com](mailto:bmarcus@marcusbonsib.com)>  
**Sent:** Saturday, October 23, 2021 6:30:37 AM  
**To:** Stephen Stern <[Stern@kaganstern.com](mailto:Stern@kaganstern.com)>  
**Cc:** Sydney M. Patterson  
<[SPatterson@marcusbonsib.com](mailto:SPatterson@marcusbonsib.com)>; [gjordan@jz-llc.com](mailto:gjordan@jz-llc.com)  
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<[tgagliardo@gelawyer.com](mailto:tgagliardo@gelawyer.com)>  
**Subject:** Re: Daniel White Notice of Deposition

Good morning Mr. Stern,

I am writing to you again as I did not hear back from you prior to the close of business on Friday. If I missed your call or your e-mail response, please accept my sincere apologies.

As indicated in my e-mail of October 21, 2021 and the message left for you on voicemail in your office, I have tried to reach you to set a date for Mr. White's



deposition on a date that Mr. White and I am available for his deposition. Mr. White's attempted murder jury trial begins on Monday, October 25 and he is required to be in Court in St. Mary's County. I had hoped to hear from you before today but I am certain that the press of other matters may have made that difficult for you.

I am copying Messrs. Jordan and Gagliardo inasmuch as they appear to be the other attorneys in the case and may not have heard from you either.

Again, please feel free to provide dates that may work for Mr. White's deposition. Thank you again in advance for what I anticipate will be your cooperation. Have a nice weekend.

**From:** "Bruce L. Marcus"  
<[bmarcus@marcusbonsib.com](mailto:bmarcus@marcusbonsib.com)>  
**Date:** October 21, 2021  
at 5:11:52 PM EDT  
**To:**  
[stern@kaganstern.com](mailto:stern@kaganstern.com)  
**Subject: Daniel White**  
**Notice of Deposition**

Dear Mr. Stern,

Please permit me to introduce myself. I have been retained to represent Daniel White in matters related to the Notice of Deposition issued to Mr. White. I tried to reach you by telephone and left a message so please excuse the formality of this correspondence.

Unfortunately, Mr. White is scheduled to be in trial on Monday in the Circuit Court for St. Mary's County in the case of State of Maryland v. Johnson, Case #'s 2018-114; 115 where the lead charge

is Attempted Murder and the second charge Carjacking. The trial has been scheduled for some time. In addition, I am scheduled to be out of State next week, but frankly Mr. White's conflict should well explain and justify his inability to appear. I am happy to arrange a time for his deposition convenient to all participants.

Please advise me on the discovery schedule in the case and the dates that may be available to you and other counsel. Thank you in advance for your anticipated courtesy and cooperation in scheduling this deposition.

Sincerely,

Bruce L. Marcus  
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Sent from my ipad

<Second Amended Notice of Deposition (DWhite)  
(00156132xEC90E).pdf>